IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 4096 of 2007(K)

PETITIONER:

BENNY ABEEZER, S/O. BENNY, AGED 53,
RESIDING AT SKYLARK HOUSE, KUDUMBANOOR,
UPANIYOOR DESOM, NEMAM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.VPK.PANICKER

RESPONDENTS:

1. **THE DISTRICT MAGISTRATE,**
   THIRUVANANTHAPURAM.

2. **THE ADDITIONAL DISTRICT MAGISTRATE,**
   THIRUVANANTHAPURAM.

3. **THE ASSISTANT EXECUTIVE ENGINEER,**
   ELECTRICAL SUB DIVISION, BALARAMAPURAM,
   ELECTRICAL SECTION, NEMOM.

4. **THE SECRETARY,**
   KALLIYOOR GRAMA PANCHAYAT, OFFICE OF THE
   KALLIYOOR GRAMA PANCHAYAT, KALLIYOOR P.O.,
   THIRUVANANTHAPURAM.

5. **J.SAITOR,**
   K.P. V/642, JOHN SADANAM, PALLITHARA VEEDU,
   KUDUMBANOOR, NEMOM P.O.

6. **G.R.SUSANNA, K.P. V/633,**
   M.G.NIVAS, PALLITHARA VEEDU, KUDUMBANOOR,
   NEMOM P.O.

7. **J.SUNNY,**
   K.P. V/637, PALLITHARA VEEDU, KUDUMBANOOR,
   NEMOM P.O.

8. M.G.JOSE,
M.G.NIVAS, K.P. V/636, PALLITHARA VEEDU,
KUDUMBANOOR, NEMOM P.O.

9. G.R.KAMALAN, K.P. V/631,
PALLITHARA VEEDU, KUDUMBANOOR, NEMOM P.O.

10. M.G.HENDERSON,
K.P. V/634, M.G.NIVAS, PALLITHARA VEEDU,
KUDUMBANOOR, NEMOM P.O.

BY ADV. SRI.R.S.KALKURA
SRI.KIRAN SANKAR
SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM
SRI. JOSE.J.MATHEAKEL, SC KSEB.
GOVERNMENT PLEADER SMT. N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 4096/2007 K

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PARITITION DEED DT. 23/6/87.

EXT.P2. COPY OF THE TAX RECEIPT BEARING NO. 1339085 DT. 11/10/2002 ISSUED FROM THE VILLAGE OFFICE, KALLIYOOR.

EXT.P3. COPY OF THE JUDGMENT DT. 31/7/2004 IN OS NO. 2022/2000 ON THE FILE OF THE ADDITIONAL MUNSIFF (RENT CONTROL COURT, THIRUVANANTHAPURAM)

EXT.P4. COPY OF THE ORDER DT. 9/12/2005 IN IA NO. 2618/2005 IN AS NO. 283/2005 ON THE FILE OF THE IIND ADDITIONAL DIST. JUDGE, THIRUVANANTHAPURAM.

EXT.P5. COPY OF THE NOTICE DT. 229/06/2006 BEARING NO. DB/ESDB/PROPERTY CROSSING NEMOM 6/7/38 ISSUED BY THE R3.

EXT.P6. COPY OF THE JUDGMENT OF THE HIGH COURT OF KERALA DT. 18/07/2006 IN WPC NO. 18595/06.

EXT.P7. COPY OF THE REPRESENTATION DT. 30/12/2005 BY THE PETITIONER TO R4.

EXT.P8. COPY OF THE REPRESENTATION DT. 24/6/2006 BY THE PETITIONER TO THE R4.

EXT.P9. COPY OF THE COMPLAINT SUBMITTED BEFORE THE R1 DT. 11/7/2006.

EXT.P10. COPY OF THE NOTICE DT. 28/12/2006 IN PROCEEDINGS BEARING NO. S1/67259/2006, ALONGWITH THE COMPLAINT SUBMITTED BY R3.

EXT.P11. COPY OF THE OBJECTION DT. 11/1/2007, BY THE PETITIONER TO THE R2, IN SI 67259/2006.

EXT.P12. COPY OF THE APPLICATION DT. 15/1/2007 SOUGHT TO BE SUBMITTED BY THE PETITIONER TO R4.

EXT.P13. COPY OF THE APPLICATION BY THE PETITIONER TO THE R3 DT. 16/1/2007.

EXT.P14. COPY OF THE AFFIDAVIT SWORN TO BY ADVOCATE SRI. MURALIKRISHNAN S. DT. 31/1/2007.

EXT.P15. COPY OF THE SIMILAR AFFIDAVIT SWORN TO BY THE PETITIONER DT. 31/1/2007.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO.4096 OF 2007-K

JUDGMENT

There is a civil dispute between the petitioner and respondents 5 to 10 regarding the right over 70 cents of land in Re-survey No.38/2 of Kalliyoor Village, Thiruvananthapuram district. The petitioner submits, he has got Ext.P3 decree in his favour, establishing his right over the said property and also directing removal of the above said party respondents from the property. But, those respondents have moved the appellate court and obtained an order of status quo. While so, it is submitted, the respondents 5 to 10 have applied for power connection to a building, which is stated to be a temporary building erected by them in the said property. The K.S.E.B has moved the Additional District Magistrate for drawing the line. In the above background, this Writ Petition is filed, seeking appropriate reliefs.

2. I heard the learned standing counsel for the 3rd respondent, the learned counsel appearing for the 4th respondent Secretary of the Panchayat and the learned counsel for respondents 5 to 10. The civil dispute between the parties is already pending before the appellate court. But, it is ordered that the line shall be drawn, if only it is permitted by the 2nd respondent

A.D.M. Power supply, if any, shall also be given strictly in accordance with Regulation 14(4) of the Kerala State Electricity Board Terms and Conditions of Supply, 2005. It is made clear that the drawing of the line or grant of power connection will not affect the rights of any of the parties concerning the civil dispute between them.

The Writ Petition is disposed of as above.

5th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/